REMARKS

The Office Action dated July 27, 2006 has been received and carefully noted. Claims 1-30 were examined. Claims 1-7, 11-17 and 21-27 are rejected under 35 U.S.C. § 102 and claims 8-10, 18-20 and 28-30 are rejected under 35 U.S.C. § 103(a).

Claims 1 and 19 are amended. These claims have been amended without affecting their scope, to correct antecedent basis and typographical errors. Claims 1-30 remain pending in the application.

Reconsideration of the pending claims is respectfully requested in view of the following remarks.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 1-7, 11-17 and 21-27 are rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,085,170 to Tsukuda ("*Tsukuda*"). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *MPEP § 2131.* Applicant respectfully submits that each and every element in independent claims 1, 11 and 21 is not set forth in the cited reference.

As per independent claims 1, 11 and 21, the Examiner points to column 4, lines 3-9 of *Tsukuda* suggesting that it discloses the limitation "determining a deviation between the new delivery schedule and a confirmed delivery schedule from the customer." *See Office Action, page 2.* Applicants respectfully disagree that *Tsukuda* at column 4 lines 3-9 suggest this. This section of *Tsukuda* merely suggests different names for the same "commodities or goods" based on the viewpoint of different entities that may be involved in a transaction. It does not teach or suggest means for determining a deviation between the new delivery schedule and a confirmed delivery schedule.

Similarly, contrary to the Examiner's contention, *Tsukuda* does not disclose the limitation "determining if a new schedule is eligible for further consideration." Column 9, lines 56-63 of *Tsukuda* discloses that the difference between the two tables in FIG. 4 and FIG. 14 is merely the addition of two columns, "items or columns 'size(s)' and 'necessity of refrigeration of the goods'" and is not comparing two like entities for their differences and is not determining if a new schedule is eligible for further consideration.

Also, the limitation "generating a schedule of production resources and inventory that satisfy at least some requirement of the new delivery schedule" in claims 1, 11 and 21 is not disclosed by *Tsuduka* in step 101 of FIG. 1. Step 101 generates a list of schedule for delivery and not a schedule for production resources and inventory.

Moreover, Applicants respectfully submit that reading "confirming the existence of the scheduled" (*see Office Action, page 3, line 5*) via step 1907 of FIG. 19 as disclosing a confirmation to the customer that the supplier accepts the new delivery schedule takes this phrase out of its context. In column 12, lines 38, the system in *Tsuduka* in step 1907 on receiving notice of deletion from the client, registers it into the delivery goods information "after confirming the existence of the scheduled date and time in the delivery information." Thus, *Tsuduka* does not disclose any confirmation to the client after the deletion.

Tsukuda does not include each and every element of independent claims 1, 11 and 21. Claims 2-7, 12-17 and 22-27 include all of the limitations of their respective independent claims. Therefore, *Tsukuda* does not anticipate these claims. Accordingly, Applicants respectfully submit that independent claims 1, 11 and 21 and their respective dependent claims are patentable in view of *Tsukuda*.

II. Claims Rejected Under 35 U.S.C. § 103(a)

Claims 8-10, 18-20 and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatenable over *Tsukuda*, and further in view of U.S. Patent Pub. 2002/0143605 by Holland et al. ("*Holland*"). To establish a *prima facie* case of obviousness: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there must be a reasonable expectation of success; and (3) the references when combined must teach or suggest all of the claim limitations. *MPEP § 2142*. Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

Claims 8-10 depend from the independent claim 1 and incorporate the limitations of claim 1. Applicants believe that claim 1 to be in condition for allowance for the reasons mentioned in the above discussion regarding independent claim 1. Thus, these claims are not obvious over *Tsukuda*. Also, the combination of *Tsuduka* and *Holland* does not teach or suggest all the elements of the invention. *Tsuduka* fails to teach the limitations of "determining a

deviation between the new delivery schedule and a confirmed delivery schedule from the customer," "determining if the new delivery schedule is eligible for further consideration based on the deviation," "generating a schedule of production resources and inventory that satisfy at least some requirement of the new delivery schedule" and "confirming to the customer that the supplier accepts the new delivery schedule" that are incorporated in claims 8-10. Moreover with regard to *Holland*, the Examiner has failed to indicate and Applicants are unable to discern any portion of *Holland* that teaches these elements. Thus, *Holland* does not cure the deficiencies of *Tsukuda*. Accordingly, Applicants respectfully request that the Examiner withdraw the outstanding 35 U.S.C. § 103(a) rejection as applied to claims 8-10.

Similarly, claims 18-20 and 28-30 depend from the independent claims 11 and 21 and incorporate the limitations of claim 11 and 21, respectively. Applicants believe that claims 11 and 21 to be in condition for allowance for the reasons mentioned in the above discussion in regard to independent claims 11 and 21. Thus, these claims are not obvious over *Tsukuda*. Also, the combination of *Tsuduka* and *Holland* does not teach or suggest all the elements of the invention. *Tsuduka* fails to teach the limitations of "determining a deviation between the new delivery schedule and a confirmed delivery schedule from the customer," "determining if the new delivery schedule is eligible for further consideration based on the deviation," "generating a schedule of production resources and inventory that satisfy at least some requirement of the new delivery schedule" and "confirming to the customer that the supplier accepts the new delivery schedule" that are incorporated in claims 18-20 and 28-30. Moreover in regard to *Holland*, the Examiner has failed to indicate and Applicants are unable to discern any portion of *Holland* that teach or suggest these elements. Thus, *Holland* does not cure the deficiencies of *Tsukuda*. Accordingly, Applicants respectfully request that the Examiner withdraw the outstanding 35 U.S.C. § 103(a) rejection as applied to claims 18-20 and 28-30.

For the reasons set forth above in regard to dependent claims 8-10, 18-20 and 28-30, *Tsukuda* does not teach or suggest the elements of claims 8-10, 18-20 and 28-30. *Holland* does not cure these defects of *Tsukuda*. Accordingly, Applicants respectfully submit that dependent claims 8-10, 18-20 and 28-30 are patentable over *Tsukuda* in view of *Holland*.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-30, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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